

ESTTA Tracking number: **ESTTA146084**

Filing date: **06/15/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91171193
Party	Plaintiff BERNARDAUD PORCELAINES DE LIMOGES, S.A. BERNARDAUD PORCELAINES DE LIMOGES, S.A. Bernardaud Porcelaines de Limoges, S.A. 27 rue Albert Thomas Limoges, 87000 FRANCE
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Submission	Motion for Summary Judgment
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Date	06/15/2007
Attachments	00102274.pdf (28 pages)(386908 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application no. 78641279 for **BERNARDO**

BERNARDAUD PORCELAINES
DE LIMOGES, S.A.,

Opponent,

-v-

Ashley Nettye, Inc.

Applicant

Opposition no. 91171193

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
BOX TTAB / NO FEE

MOTION FOR SUMMARY JUDGMENT

Bernardaud Porcelaines de Limoges S.A.. (“Opposer”) hereby moves, pursuant to Fed. R. Civ. P. 56, for summary judgment with respect to the issues of prior rights, and with respect to likelihood of confusion.

STATEMENT OF FACTS

Opposer is the owner of U.S. Registration No. 2338274 for the mark BERNARDAUD, in class 14, covering hand painted porcelain jewelry; namely, rings, earrings, bracelets and necklaces (“Opposer’s Goods”). The application was filed on April 2, 1999, and registered on April 4, 2000 (Londa Declaration Exhibit 3). The Declaration of Continued Use Under Section 8, and Declaration of Incontestability Under Section 15, have been filed and accepted as of July 8, 2006 (Londa Declaration Exhibit

Opposer is a world-famous designer and manufacturer of fine porcelain, and has been operating in France since 1863. Its goods have been exported to the United States since 1905. In addition to its flagship boutiques in New York (Park Avenue) and Chicago (Michigan Avenue), Opposer's goods are sold under its mark throughout the U.S. in jewelry and luxury shops, as well as quality department stores, such as Macy's, Nieman-Marcus and Bloomingdales (See Kakaty Declaration).

In addition to its principal focus on porcelain dinnerware, Opposer introduced a line of fine porcelain hand-painted jewelry in 1998. The pieces are based on original, proprietary designs, and are of extremely high quality. The retail price range for each piece is about \$95 to \$415 (See Kakaty Declaration).

The fame of Opposer's brand BERNARDAUD is well-established, and has been accepted as a member by a leading French luxury goods association. Opposer's worldwide sales of BERNARDAUD branded goods in total was 45 million euros in 2003, and is in the millions of dollars for the U.S. market. While its U.S. jewelry sales are only a small portion of overall sales to date, this line has been quite successful, showing steady growth year after year. Opponent advertises its products in local and national print media, such as magazines, for example Chicago Magazine and New York Times supplement (See Kakaty Declaration).

Opposer has used the mark BERNARDAUD in connection with Opposer's Goods, continuously and exclusively, since at least October 1998, in U.S. commerce. The claim of use in commerce was set forth in Opposer's application which resulted in the Reg. No. 2338274 (Londa Declaration Exhibit 3).

Because of the longstanding, continuous and exclusive use of the mark BERNARDAUD in connection with Opposer's Goods, Opposer has established valuable goodwill in the mark, and the consuming public recognizes Opposer as being the sole source of these quality products sold under the mark BERNARDAUD. Furthermore,

because of the over 100-year history of its mark, and its worldwide reputation for quality, Opposer's mark is famous and is entitled to a broad scope of protection.

Applicant has filed the above-referenced application on June 1, 2005 as an intent to use application. According to the online PTO records, no Statement of Use has been filed to date. Accordingly, Applicant can not allege a constructive use date prior to June 1, 2005. The filing date of Opposer's registration, as well as Opposer's early date of use, is well prior to the constructive use date of Applicant's mark. Accordingly, Opposer's rights are superior to those of Applicant.

On information and belief, Applicant's principal line of business is the design and sale of clothing, particularly outerwear, sold under several brands including BERNARDO. Based on the goods identified in the presently opposed application, in addition to the goods opposed in class 14 (jewelry and watches), Applicant seeks coverage of, *inter alia*, perfume and cosmetics, eyewear, towels, linens. Therefore, it appears that Applicant intends to establish a line of branded accessories to accompany its outerwear. Applicant indicates that it advertises its fashions in the following magazines: *Vogue, Elle, Marie Claire, Cosmopolitan*. Applicant indicates that its fashions are available at the following stores, among others: Macy's, Nordstrom (See Londa Declaration, Exhibit 1)

Applicant has filed for the mark BERNARDO covering "watches and jewelry". The mark is highly similar to Opposer's mark in visual impression, and is identical to that Opposer's mark in pronunciation. The goods of Applicant are identical or highly related to those of Opposer: Opposer's porcelain jewelry is encompassed within Applicant's broad recitation of jewelry, and in any event would be closely related to non-porcelain jewelry; and Opposer's porcelain jewelry is highly related to watches, as watches are often considered a form of functional jewelry, are often co-branded with jewelry and are marketed and sold through similar channels. The consumer may mistakenly believe that BERNARDAUD porcelain jewelry and BERNARDO jewelry and watches derive from the same source, causing damage to Opposer's reputation.

LEGAL DISCUSSION

THE STANDARD

Opposer is entitled to summary judgment if it can demonstrate that there is no genuine issue of material fact and that Opposer is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56. Summary judgment is proper when no genuine issue of material fact exists and when a rational jury, examining the entire record, could not find for the nonmoving party. Anderson v. Liberty Lobby, Inc. 477 U.S. 242 (1986). Moreover, the Federal Circuit held that in an opposition proceeding, summary judgment is appropriate relief, where the moving party has satisfied its burden. See Kellogg Co. v. Pack'em Enterprises, Inc., 21 U.S.P.Q.2d 1142 (Fed. Cir. 1991).

The United States Patent and Trademark Office may refuse to register a trademark that so resembles a mark “as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.” 15 U.S.C. §1052(d). Whether the likelihood of confusion exists is a question of law, based on the underlying factual determinations. Likelihood of confusion is determined on a case-by-case specific basis, applying the factors set forth in In re E.I. DuPont De Nemours & Co., 177 USPQ 563, 567 (CCPA 1973)(“Dupont Factors”). The Dupont Factors include:

- 1) the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression;
 - 2) the similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use;
 - 3) the similarity or dissimilarity of established, likely-to-continue trade channels;
 - 4) the conditions under which and buyers to whom sales are made, i.e. “impulse” vs. careful, sophisticated purchasing;
 - 5) the fame of the prior mark (sales, advertising, length of use);
 - 6) the number and nature of similar marks in use on similar goods;
 - 7) the nature and extent of any actual confusion;
-

- 8) the length of time during and conditions under which there has been concurrent use without evidence of actual confusion;
- 9) the variety of goods on which a mark is or is not used (house mark, “family” mark, product mark);
- 10) the market interface between applicant and the owner of a prior mark;
- 11) the extent to which applicant has a right to exclude others from use of its mark on its goods;
- 12) the extent of potential confusion, i.e. whether de minimis or substantial; and
- 13) any other established fact probative of the effect of use.

Id.

Opposer Has Earlier Rights in the Mark

Opposer has used its mark on Opposer’s Goods continuously since about 1998, and has registration rights going back to its filing date in 1999. The registration has been rendered incontestable under Section 15 in view of exclusive and continuous use for the preceding five years. Applicant has not filed a Statement of Use and therefore its earliest constructive use date is its filing date of June 1, 2005. Accordingly, based on Opposer’s longstanding use of its mark for the past 7 years and its earlier and incontestable registration, Opposer is the first user of the mark and its rights are superior to those of Applicant. Even if Applicant seeks to rely on its existing registrations in class 25 and use on clothing, Opposer’s rights in its mark go back over 100 years with respect to porcelain dinnerware, well before any use by Applicant in any manner.

DUPONT FACTORS

The Marks are either Identical or Substantially Identical

Applicant’s mark is for the word mark BERNARDO in block letters. Opposer’s mark is BERNARDAUD in block letters. Both marks feature the principal portion and

first two syllables BERNARD. Visually, both marks are indisputably highly similar. In pronunciation, the marks are identical. BERNARDAUD would be pronounced, according to the French style, as “bernardo”, particularly by the particular consumers who would purchase Opposer’s luxury goods. Even if certain consumers would be unsure of the proper French pronunciation, the marks are in any event highly similar in commercial impression.

The Goods are Related

An equally significant factor is the nature of the goods provided in connection with the mark. In determining likelihood of confusion, the legal standard is decided on the basis of the identification of the goods set forth in the application. See Packard Press, Inc. v. Hewlett-Packard Co., 56 U.S.P.Q.2d 1351(Fed. Cir. 2000); Octocom Systems, Inc. v. Houston Computer Services, Inc., 16 U.S.P.Q.2d 1783 (Fed. Cir. 1990); CBS Inc. v. Morrow, 218 U.S.P.Q. 198 (Fed. Cir. 1983).

Opposer’s longstanding use and its registration relates to hand painted porcelain jewelry; namely, rings, earrings, bracelets and necklaces. Applicant’s pending application covers jewelry and watches.

The goods of Applicant are identical or highly related to those of Opposer: Opposer’s porcelain jewelry is encompassed within Applicant’s broad recitation of jewelry, and in any event would be closely related to non-porcelain jewelry; and Opposer’s porcelain jewelry is highly related to watches, as watches are often considered a form of functional jewelry, are often co-branded with jewelry and are marketed and sold through similar channels. Therefore, the goods of Opposer and Applicant are related.

The Similarity Or Dissimilarity Of Established, Likely-To Continue Trade Channels

Opposer’s porcelain jewelry and Applicant’s jewelry are essentially identical in that Opposer’s goods are encompassed within Applicant’s definition. Accordingly, the

trade channels are, by definition, identical. Even if Applicant's goods were limited to jewelry other than porcelain jewelry, the analysis would not change. Watches are often considered a form of functional jewelry, and are in many cases displayed and sold in the identical outlets as jewelry.

Opposer sells its goods through its own boutiques, as well as through department stores such as Macy's (Kakaty Declaration). Applicant also sells its clothing through department stores, including Macy's (Londa Declaration), and would presumably sell the goods of the present application in the same locations. Both parties advertise in print media, and the level of sophistication and target audience for *Chicago Magazine* and *The New York Times* is similar to that for *Cosmopolitan* and *Elle*. The trade channels are identical or similar.

The Conditions Under Which And Buyers To Whom Sales Are Made

As the goods are essentially identical, and neither are limited by their definition in terms of sales conditions, the conditions would be highly similar or identical. Opposer's goods may be considered luxury products, and would be targeted toward a high end consumer. Based on Applicant's activities with its clothing line, Applicant's jewelry and watches would be targeted as well to sophisticated consumers who shop in department stores such as Macy's. Therefore, there is likely to be significant overlap between the purchasers of Opponent's and Applicant's goods. Even if Opponent's purchasers may be slightly more sophisticated and therefore, somewhat more discriminating, this does not detract from the likelihood of confusion. Where the relevant buyer market includes both sophisticated and ordinary consumers, the Board must give consideration to the likelihood of confusion which may occur on the part of the ordinary consumer. Omega Importing Corp. v. Petri-Kine Camera Co., 171 USPQ 769 (2d Cir. 1971).

The Fame Of The Prior Mark

Opposer's mark is famous as a high quality brand for porcelain goods, based on a history going back over 100 years, and a product line generating millions of dollars of revenue per year. Even though the many years of use relate principally to porcelain

dinnerware, the fame of the mark would clearly extend to its line of porcelain jewelry as evidenced by the success of these goods in the marketplace during the almost 8 years of continuous use on the goods. Thus, Opposer's mark is clearly a strong one, and is entitled to a broad scope of protection over a wide range of products and variations in visual and aural format. McCarthy's on Trademarks, Section 11:73; Kenner Park Toys, Inc. v. Rose Art Industries, Inc., 22 USPQ2d 1453 (Fed. Cir. 1992), cert. denied, 506 U.S. 862 (1992).

The Number And Nature Of Similar Marks In Use On Similar Goods

Opposer is not aware of any similar marks.

The Nature And Extent Of Any Actual Confusion

Opposer is unaware of any actual confusion between the marks.

The Length Of Time During And Conditions Under Which There Has Been Concurrent Use Without Evidence Of Actual Confusion

Applicant has not alleged any sales relating to the marks and therefore this factor is not presently applicable.

The Variety Of Goods On Which A Mark Is Or Is Not Used

This is not applicable, as the goods are identical or highly related.

The Market Interface Between Applicant And The Owner Of A Prior Mark

There is substantial mark interface as set forth above. Consumers purchasing Opposer's goods in a department store are likely to encounter Applicant's goods, and both parties advertise their products in print media targeted at sophisticated consumers.

The Extent To Which Applicant Has A Right To Exclude Others From Use Of Its Mark On Its Goods

As applicant has not alleged use, it has not evidenced a right to exclude others.

The Extent Of Potential Confusion

There is a likelihood of potential confusion between the marks. As discussed above, the marks are identical or substantially identical; and the goods are identical or highly related.

Any Other Established Fact Probative Of The Effect Of Use

Opposer has almost 8 years of continuous use of its mark relative to its line of hand painted porcelain jewelry. Applicant seeks to sell jewelry and watches under an almost identical mark. In addition, Applicant is the owner of several existing registrations for the mark BERNARDO in class 25 for clothing (U.S. Reg. Nos. 1979147, 2433856, 2911578, 2978052, among others); and the application opposed herein seeks coverage for (other than the opposed class 14) goods in classes 3, 9 and 24 (e.g., perfume and cosmetics, eyewear, linens). It is apparent that Applicant seeks to expand the use of its mark BERNARDO to a line of branded non-clothing products. It is noted that Opposer has longstanding, and incontestable rights for its porcelain jewelry under the mark BERNARDAUD, and that Opposer's mark is famous as a luxury brand for high quality porcelain goods. Applicant's expansion of its mark to cover not only jewelry, but an entire line of divergent items, has the potential to cheapen and dilute the strength that Opposer has built up in its mark over the past 100 years, and the past 8 years specifically with respect to jewelry, thus doing irreparable harm and damage to Opposer's mark. Consumers may hear the mark BERNARDO for a line of jewelry, eyewear, perfume, clothing, and be led to mistakenly believe that Opposer's BERNARDAUD goods are somehow merely a 'brand extension' of Applicant's clothing line.

SUMMARY

No Triable Issues Of Fact Remain

There is no issue as to first use. Opposer's actual date of first use, and the constructive date of first use based on its filing date, is earlier in time than Applicants' filing date and constructive date of first use. There is no dispute as to the priority of rights. The only other issue is likelihood of confusion, which is an issue of law ripe for

summary judgment. Based on the arguments set forth above, Opposer has established a likelihood of confusion as a matter of law and is therefore entitled to summary judgment.

There is a likelihood of confusion under the DuPont factors

Based on a consideration of the factors above, the Opposer has clearly demonstrated a likelihood of confusion. The marks are identical in pronunciation and highly similar in appearance and commercial impression. The goods are identical or highly related. These two principal DuPont factors are therefore in Opposer's favor. Furthermore, as Opposer's mark is very strong, it is entitled to a broad scope of protection which encompasses variations in the goods or the marks. The remaining factors are either inapplicable, or provide a clear advantage to Opposer. Therefore, overall, weight should be given to Opposer's position.

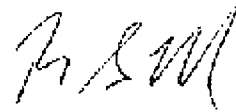
CONCLUSION

There is no genuine issue of material fact for the Board to decide, and a decision can be made by the Board as a matter of law. A determination as to the issues of date of first use, similarity of the marks, and relatedness of the goods in view of the Du Pont factors, may be based on the information set forth in the respective pleadings of the parties, as set out in the brief above, and therefore the ultimate issue may be readily decided by the Board

The Trademark and Trial Appeal Board should enter an order granting Opposer's motion for summary judgment of likelihood of confusion against Applicants' mark. Opposer's cited mark is first in time and Opposer has demonstrated that there is a likelihood of confusion.

Wherefore, Opposer's motion for summary judgment should be granted and Applicants' mark should be denied registration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. S. Londa', written in a cursive style.

Bruce S. Londa
Attorney for Opposer

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875 Third Avenue
New York, NY 10022
bslonda@nmmlaw.com
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fax 212.808.0844

APPENDIX

LISTING OF CITED CASES

Anderson v. Liberty Lobby, Inc. 477 U.S. 242 (1986).

Kellogg Co. v. Pack'em Enterprises, Inc., 21 U.S.P.Q.2d 1142 (Fed. Cir. 1991).

In re E.I. Dupont DeNemours & Co., 177 USPQ 563, 567 (CCPA 1973)

Packard Press, Inc. v. Hewlett-Packard Co., 56 U.S.P.Q.2d 1351 (Fed. Cir. 2000);

Octocom Systems, Inc. v. Houston Computer Services, Inc., 16 U.S.P.Q.2d 1783

(Fed. Cir. 1990)

CBS Inc. v. Morrow, 218 U.S.P.Q. 198 (Fed. Cir. 1983).

Omega Importing Corp. v. Petri-Kine Camera Co., 171 USPQ 769 (2d Cir.

1971).

Kenner Park Toys, Inc. v. Rose Art Industries, Inc., 22 USPQ2d 1453 (Fed. Cir.

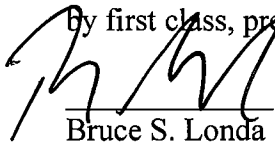
1992), cert. denied, 506 U.S. 862 (1992).

CERTIFICATE OF SERVICE

I hereby certify that the within motion was served on counsel for applicant:

JACQUELINE LESSER
WHITE & CASE LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

by first class, pre-paid U.S. Postal Service, on the date listed below.



Bruce S. Londa

Date: June 15, 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application no. 78641279 for **BERNARDO**

BERNARDAUD PORCELAINES
DE LIMOGES, S.A.,

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Ashley Nettye, Inc.

Applicant

Opposition no. 91171193

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
BOX TTAB / NO FEE

DECLARATION OF GEORGE J. KAKATY IN SUPPORT OF OPPONENT'S
MOTION FOR SUMMARY JUDGMENT

I am George J. Kakaty, President for the North American subsidiary of Bernardaud Porcelaines de Limoges, S.A.. I make this declaration in support of Opponent's Motion for Summary Judgment.

1. This history of Opponent ("Bernardaud") dates back to 1863 in France. Bernardaud is the leading manufacturer and exporter of porcelain in France. Today, Bernardaud is among an elite group of world-renowned French luxury houses and is one of seventy selected members of the prestigious Comité Colbert, an association dedicated to the promotion of the unique excellence of French luxury goods around the world. By virtue of its excellence, Bernardaud has been able to use modern styling in order to bring

porcelain into new territory, extending from its origins in dinnerware to jewelry and objects of art for the home. Selected pages of Bernardaud's jewelry catalog are attached hereto as Exhibit 1.

2. Bernardaud introduced porcelain dinnerware into the United States in 1905, and has been selling here continuously. Porcelain jewelry was introduced into the United States in 1998. While its home is in France, Bernardaud's exports now account for more than 70% of total sales, with North America being the largest and most successful region. As of 2003, consolidated revenue was about 45 million euros, with current annual U.S. sales being in the millions of dollars. While jewelry accounts for only a fraction of overall sales compared to dinnerware, sales of BERNARDAUD branded jewelry in the United States have increased steadily year after year. The suggested retail price of the jewelry pieces ranges from \$95 to \$410.

3. Bernardaud sells its goods in its own boutiques in New York (Park Avenue) and Chicago (Michigan Avenue), as well as through high-end retailers such as jewelry (including in-hotel) stores and department stores, such as Macy's, Neiman-Marcus and Bloomingdales. Bernardaud advertises its goods through local (such as Chicago Magazine and New York Times supplements) and national print media such as magazines.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document

or any registration resulting therefrom, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: June 15, 2007


Signature

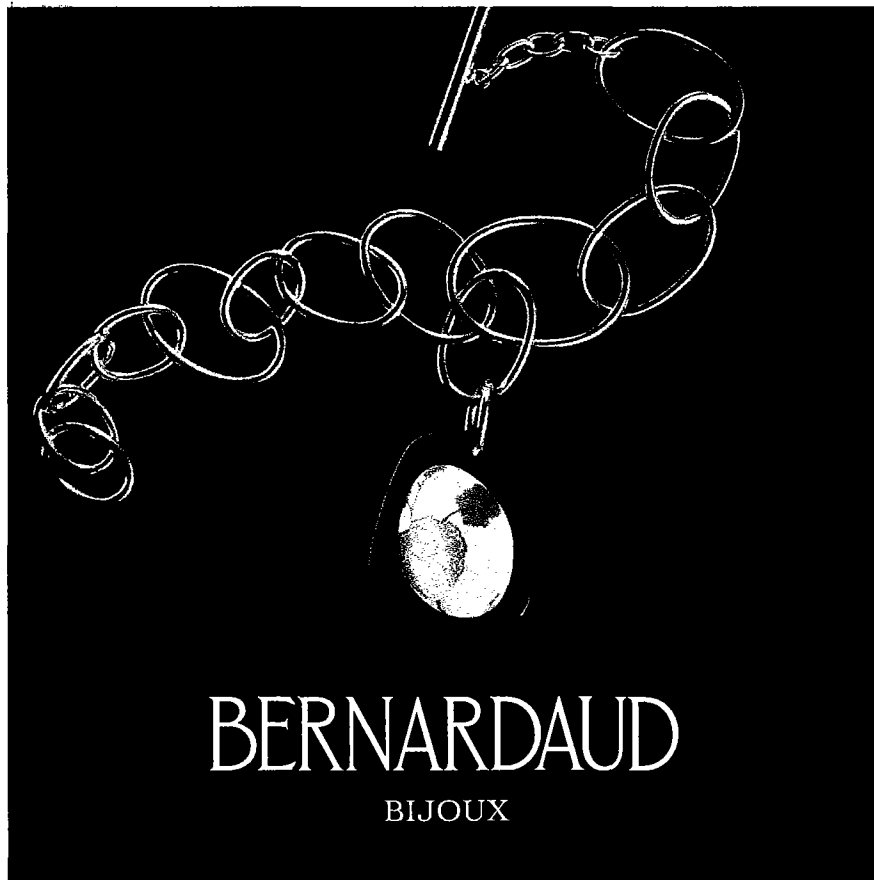
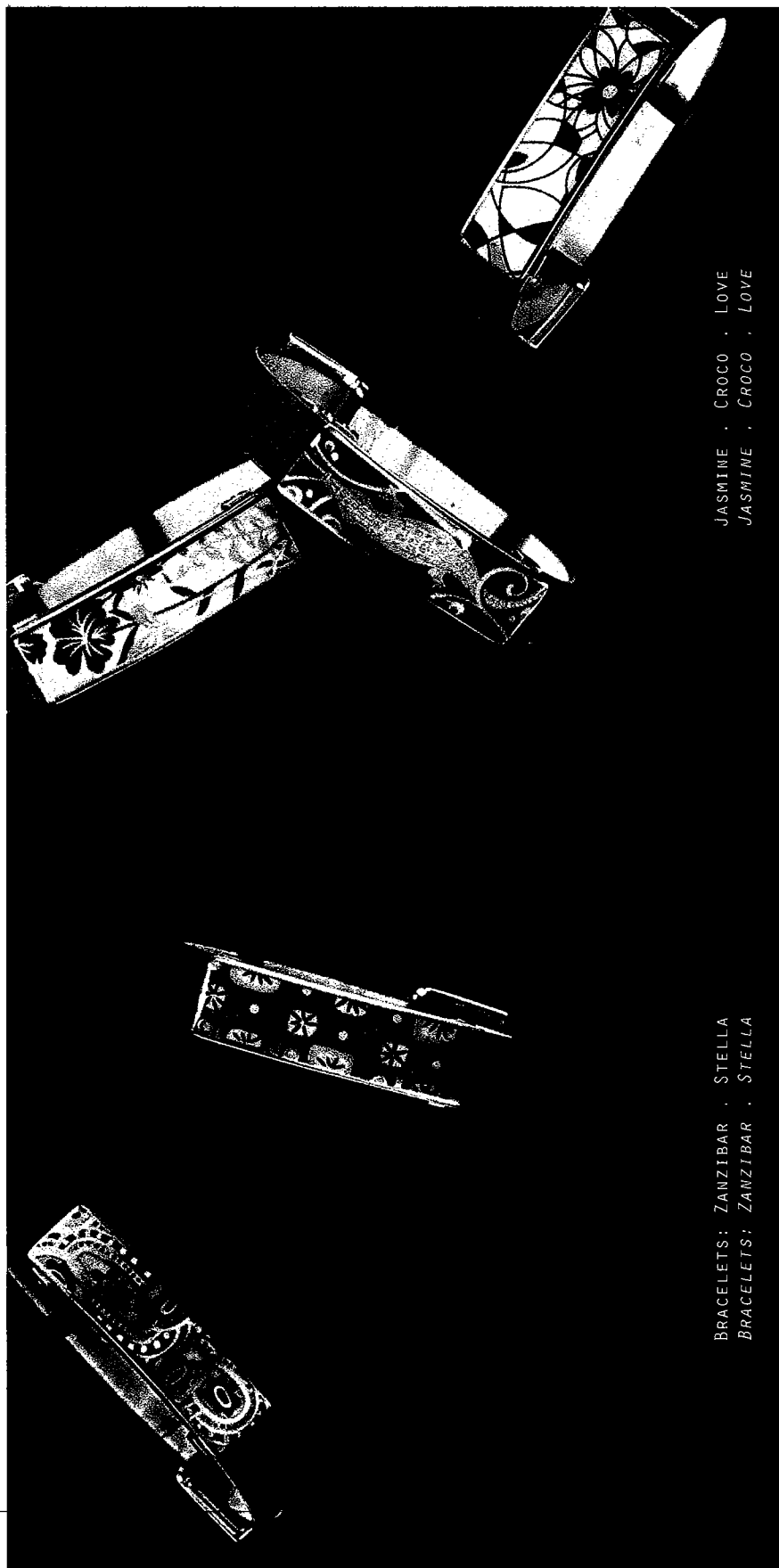
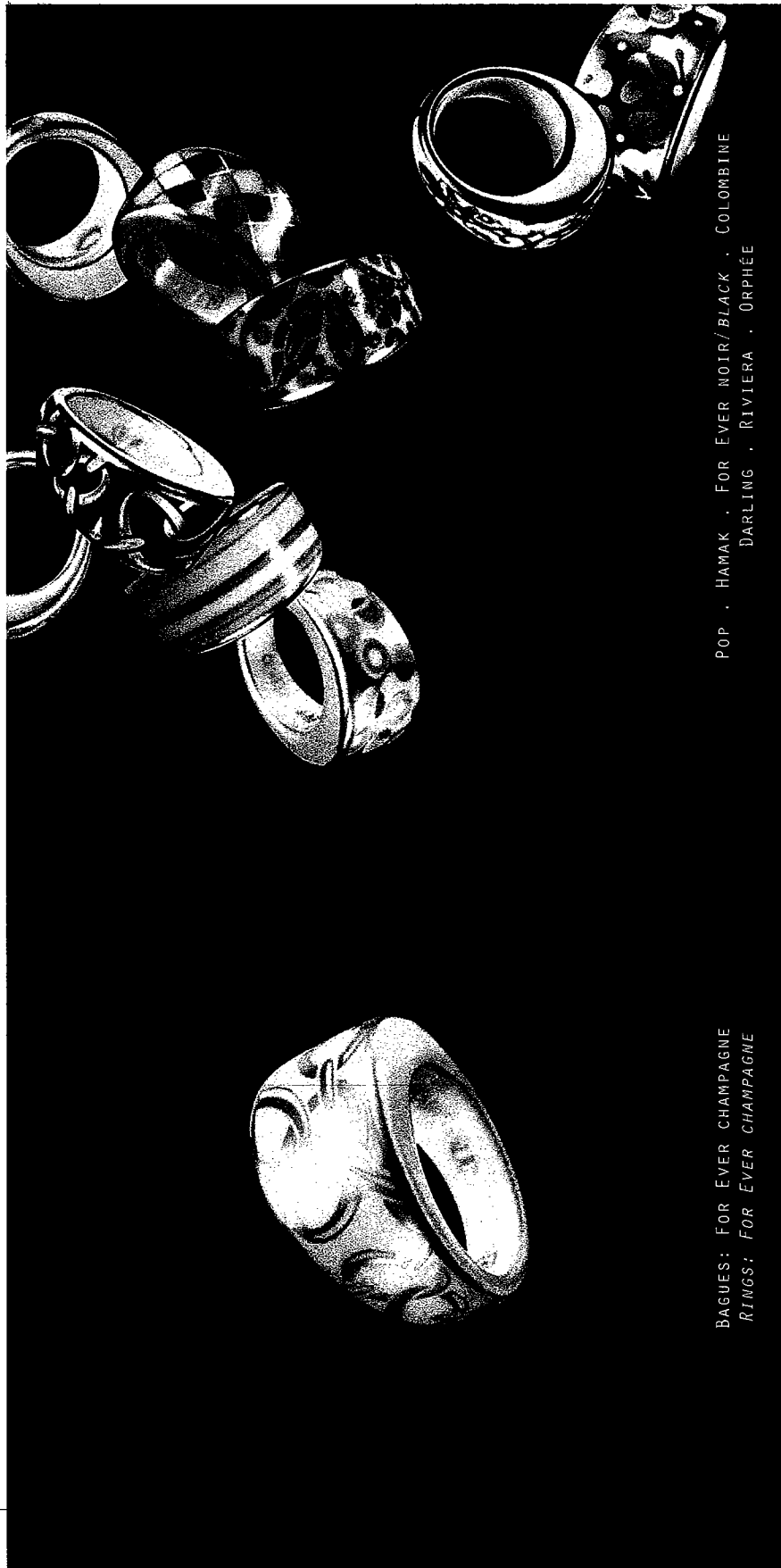


EXHIBIT 1



JASMINE · CROCO · LOVE
JASMINE · CROCO · LOVE

BRACELETS: ZANZIBAR · STELLA
BRACELETS: ZANZIBAR · STELLA



POP . HAMAK . FOR EVER NOIR/BLACK . COLOMBINE
DARLING . RIVIERA . ORPHÉE

BAGUES : FOR EVER CHAMPAGNE
RINGS : FOR EVER CHAMPAGNE

Boutiques Bernardaud

PARIS 1e Carrousel du Louvre 99 rue de Rivoli Tél : 01 42 86 88 52

PARIS 8e 11 rue Royale Tél : 01 47 42 82 66

BORDEAUX 5 cours de l'Intendance Tél : 05 56 52 02 80

LILLE 44 rue Grande Chaussée Tél : 03 28 38 17 07

LIMOGES 27 avenue Albert Thomas Tél : 05 55 10 21 86

LYON 2e 15 rue des Archers Tél : 04 72 41 05 76

MARSEILLE 112 rue Paradis Tél : 04 91 37 62 34

STRASBOURG 26 rue de la Mésange Tél : 03 88 23 09 99

NEW YORK 499 Park Avenue Tel : +1 800 884 7775

CHICAGO 900 N. Michigan Avenue Tel : +1 800 884 7775

www.bernardaud.fr

COUVERTURE : BRACELET FÉROÉ CORAIL

FRONT COVER : FÉROÉ BRACELET CORAL

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of application no. 78641279 for **BERNARDO**

BERNARDAUD PORCELAINES
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Applicant

Opposition no. 91171193

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
BOX TTAB / NO FEE

DECLARATION OF BRUCE S. LONDA IN SUPPORT OF OPPONENT'S MOTION
FOR SUMMARY JUDGMENT

I am Bruce S. Londa, attorney for Opponent Bernardaud Porcelaines de Limoges, S.A.. I make this declaration in support of Opponent's Motion for Summary Judgment.

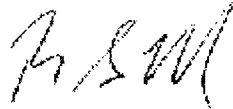
1. On June 12, 2007, I downloaded selected pages from the website <http://www.bernardofashions.com>. On information and belief, this website is owned by Applicant. True copies of these pages are attached hereto as Exhibit 1.

2. I also downloaded from the uspto.gov website a copy of Opponent's U.S. Reg. No. 1,550,195, a true copy of which is attached hereto as Exhibit 2; Opponent's

U.S. Reg. No. 2338274 as Exhibit 3, and the Notice of Acceptance and Acknowledgement of Sections 8 and 15 Declaration as Exhibit 4..

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: June 15, 2007

A handwritten signature in black ink, appearing to be 'R. S. M.', written above a horizontal line.

Signature

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BERNARDO

Company



The Bernardo Brand was born in Montreal. The founder, Stuart Pollack, identified a market in North America for fashions with the same level of design, taste and style found in Europe. The company, named after his son Bernard, began offering designer quality & style at affordable prices. The company signature became trend-right fashions with an international design sensibility. The designs are rich in detail providing modern style & sophistication.

In 1995, the company relocated to New York City. Today, Bernardo Fashions offers women's and men's outerwear. The labels include Bernardo, Bernardo Collections, B by Bernardo, Bernardo Designs, Collection B., and Ashley B by Bernardo, an exclusive label for Nordstrom named after daughter, Ashley.

Bernardo Fashions have been featured in leading magazines including *Vogue*, *Instyle*, *Lucky*, *Elle*, *Elle Girl*, *Marie Claire*, *Cosmopolitan*, *Latina*, and *Celebrity Living*.

EXHIBIT 1

[Home](#) [Company](#) [What's New](#) [Women's](#) [Men's](#) [Media](#) [Where to buy](#) [Contact us](#)

BERNARDO

Where to buy

Available at Nordstrom



Bernardo Women's Outerwear & Sportswear

Appleseed Catalog
Bergners
BonTon
Boston Stores
Carson Pirie Scott & Co.
Elder-Beerman
Herbergers
Lew Magram/Brownstone Catalog
Macy's North
Monterey Bay Clothing Company
Nordstrom Narrative
Nordstrom Point-of-View - Ashley B
Nordstrom Brass Plum - Collection B
nordstrom.com
Parisian
Soft Surroundings - retail only
Von Maur
Travel Smith Catalog
Younkers

Footwear

For more information on the footwear shown, visit the fall preview on www.bernardofootwear.com

International

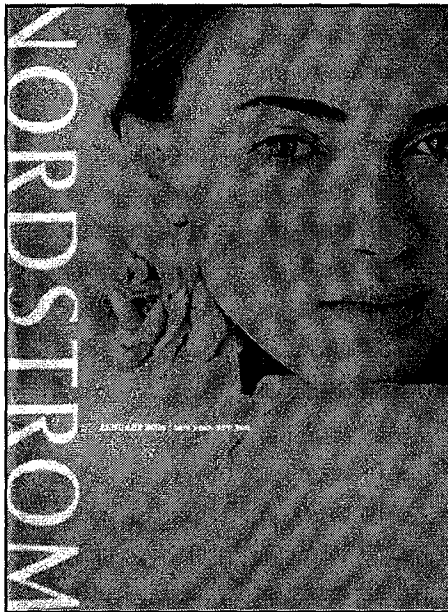
Manteaux Manteaux - Canada
Melaine Lyne - Canada
Robertsons - Scotland

For the nearest store near you contact us by e-mail at info@bernardofashions.com or call us at 212-594-3900

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BERNARDO

Media



Nordstrom
January 2006



Int. Cl.: 21

Prior U.S. Cls.: 2 and 30

United States Patent and Trademark Office

Reg. No. 1,550,195

Registered Aug. 1, 1989

**TRADEMARK
PRINCIPAL REGISTER**

BERNARDAUD

**BERNARDAUD PORCELAINES DE LIMOGES,
S.A. (FRANCE CORPORATION)
27 RUE ALBERT THOMAS
LIMOGES, FRANCE**

**FOR: DINNERWARE, NAMELY, PLATES,
CUPS, SAUCERS, DISHES, PITCHERS, TEA-
POTS, BOWLS, SALT AND PEPPER SHAKERS,**

**SERVING TRAYS AND SERVING BOWLS, IN
CLASS 21 (U.S. CLS. 2 AND 30).
FIRST USE 0-0-1905; IN COMMERCE
0-0-1905.
SEC. 2(F).**

SER. NO. 728,689, FILED 5-16-1988.

NANCY L. HANKIN, EXAMINING ATTORNEY

EXHIBIT 2

Int. Cl.: 14

Prior U.S. Cls.: 2, 27, 28 and 50

Reg. No. 2,338,274

United States Patent and Trademark Office

Registered Apr. 4, 2000

**TRADEMARK
PRINCIPAL REGISTER**

BERNARDAUD

**BERNARDAUD PORCELAINES DE LIMOGES,
S.A. (FRANCE CORPORATION)
27 RUE ALBERT THOMAS
87000 LIMOGES, FRANCE**

**FOR: HAND PAINTED PORCELAIN JEWEL-
RY; NAMELY, RINGS, EARRINGS, BRACE-
LETS AND NECKLACES, IN CLASS 14 (U.S.
CLS. 2, 27, 28 AND 50).**

**FIRST USE 10-0-1998; IN COMMERCE
10-0-1998.**

**OWNER OF U.S. REG. NOS. 1,550,195 AND
2,139,170.**

SER. NO. 75-673,296, FILED 4-2-1999.

**JONATHAN PAWLOW, EXAMINING ATTOR-
NEY**

EXHIBIT 3

Side - 1



**NOTICE OF ACCEPTANCE AND
ACKNOWLEDGEMENT OF §§8 & 15
DECLARATION
MAILING DATE: Jul 8, 2006**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 2338274
MARK: BERNARDAUD
OWNER: Bernardaud Porcelaines de Limoges, S.A.

Side - 2

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EXHIBIT 4